CABINET FOR HEALTH AND FAMILY SERVICES

Department for Medicaid Services

Division of Policy and Operations

(New Administrative Regulation)

907 KAR 20:100. Modified Adjusted Gross Income (MAGI) Medicaid eligibility standards

RELATES TO: KRS 205.520

STATUTORY AUTHORITY: KRS 194A.010(1), 194A.030(2), 194A.050(1), 205.520(3), 42 U.S.C. 1396a(e)(14)

NECESSITY, FUNCTION, AND CONFORMITY: The Cabinet for Health and Family Services, Department for Medicaid Services has responsibility to administer the Medicaid Program. KRS 205.520(3) authorizes the cabinet, by administrative regulation, to comply with any requirement that may be imposed or opportunity presented by federal law to qualify for federal Medicaid funds. This administrative regulation establishes the provisions and requirements for individuals whose Medicaid eligibility is determined using the modified adjusted gross income as the income standard. The affected individuals include children under the age of nineteen (19) years, pregnant women up to sixty (60) days postpartum, caretaker relatives, and adults under age sixty-five (65) who do not have a dependent child under the age of nineteen (19) years and are not otherwise eligible for Medicaid benefits.

Section 1. Applicability. (1)(a) The provisions and requirements of this administrative

regulation shall apply to individuals whose Medicaid eligibility is determined using the modified adjusted gross income as the income standard.

(b) An individual whose Medicaid eligibility is determined using the modified adjusted gross income as an income standard shall be an individual:

1. Who is:

a. A child under the age of nineteen (19) years, excluding children in foster care;

b. A caretaker relative with income up to 133 percent of the federal poverty level;

c. A pregnant woman, with income up to 185 percent of the federal poverty level, including the postpartum period up to sixty (60) days after delivery;

d. An adult under age sixty-five (65) with income up to 133 percent of the federal poverty level who:

(i) Does not have a dependent child under the age of nineteen (19) years; and

(ii) Is not otherwise eligible for Medicaid benefits; or

e. A targeted low income child with income up to 150 percent of the federal poverty level.

(2)(a) If an eligibility determination indicates that an individual's income exceeds 133% of the federal poverty level, the department shall apply an additional cushion of five (5) percent of the federal poverty level toward the eligibility determination for the individual.

(b) If after the five (5) percent adjustment, the individual's income is under the adjusted income threshold, the individual shall meet the modified adjusted gross income standard.

(3) The provisions and requirements of this administrative regulation shall not apply

to individuals whose Medicaid eligibility is determined using an eligibility standard that is not the modified adjusted gross income.

Section 2. MAGI-based Methods. The department shall use the MAGI-based methods established in 42 CFR 435.603 to determine whether an individual meets the Medicaid income eligibility requirements when the eligibility standard is the modified adjusted gross income.

Section 3. Resources Not Considered. An individual's resources shall not be considered for the purpose of determining Medicaid eligibility when the eligibility standard is the modified adjusted gross income.

Section 4. Citizenship and Residency Requirements. (1) The citizenship requirements established in 42 C.F.R. 435.406 shall apply.

(2) Except as established in subsection (3) or (4) of this section, to satisfy the Medicaid:

(a) Citizenship requirements, an applicant or recipient shall be:

1. A citizen of the United States as verified through satisfactory documentary evidence of citizenship or nationality presented during initial application or if a current recipient, upon next redetermination of continued eligibility;

2. Except as provided in subsection (3) of this section, a qualified alien who entered the United States before August 22, 1996 and is:

a. Lawfully admitted for permanent residence pursuant to 8 U.S.C. 1101;

b. Granted asylum pursuant to 8 U.S.C. 1158;

c. A refugee admitted to the United States pursuant to 8 U.S.C. 1157;

d. Paroled into the United States pursuant to 8 U.S.C. 1182(d)(5) for a period of at

least one (1) year;

e. An alien whose deportation is being withheld pursuant to 8 U.S.C. 1253(h), as in effect prior to April 1, 1997, or 8 U.S.C. 1231(b)(3);

f. Granted conditional entry pursuant to 8 U.S.C. 1153(a)(7), as in effect prior to April 1, 1980;

g. An alien who is granted status as a Cuban and Haitian entrant pursuant to 8 U.S.C. 1522;

h. A battered alien pursuant to 8 U.S.C. 1641(c);

i. A veteran pursuant to 38 U.S.C. 101, 107, 1101, or 1301 with a discharge characterized as an honorable discharge and not on account of alienage;

j. On active duty other than active duty for training in the Armed Forces of the United States and who fulfills the minimum active duty service requirements established in 38 U.S.C. 5303A(d);

k. The spouse or unmarried dependent child of an individual described in clause i. or j. of this subparagraph or the unremarried surviving spouse of an individual described in clause i. or j. of this subparagraph if the marriage fulfills the requirements established in 38 U.S.C. 1304; or

l. An Amerasian immigrant pursuant to 8 U.S.C. 1612(a)(2)(A)(v); or

3. A qualified alien who entered the United States on or after August 22, 1996 and is:

a. Granted asylum pursuant to 8 U.S.C. 1158;

b. A refugee admitted to the United States pursuant to 8 U.S.C. 1157;

c. An alien whose deportation is being withheld pursuant to 8 U.S.C. 1253(h) as in effect prior to April 1, 1997 or 8 U.S.C. 1231(b)(3);

d. An alien who is granted status as a Cuban and Haitian entrant pursuant to 8 U.S.C. 1522;

e. A veteran pursuant to 38 U.S.C. 101, 107, 1101, or 1301 with a discharge characterized as an honorable discharge and not on account of alienage;

f. On active duty other than active duty for training in the Armed Forces of the United States and who fulfils the minimum active duty service requirements established in 38 U.S.C. 5303A(d);

g. The spouse or unmarried dependent child of an individual described in clause e. or f. of this subparagraph or the unremarried surviving spouse of an individual clause e. or f. of this subparagraph if the marriage fulfills the requirements established in 38 U.S.C. 1304;

h. An Amerasian immigrant pursuant to 8 U.S.C. 1612(a)(2)(A)(v); or

i. An individual lawfully admitted for permanent residence pursuant to 8 U.S.C. 1101 who has earned forty (40) quarters of Social Security coverage; and

(b) Residency requirements, the applicant or recipient shall be a resident of Kentucky who meets the conditions for determining state residency pursuant to 42 C.F.R. 435.403.

(3) A qualified or nonqualified alien shall be eligible for medical assistance as provided in this paragraph.

(a) The individual shall meet the income, resource, and categorical requirements of the Medicaid Program.

(b) The individual shall have, or have had within at least one (1) of the three (3) months prior to the month of application, an emergency medical condition:

1. Not related to an organ transplant procedure;

2. Which shall be a medical condition, including severe pain, in which the absence of immediate medical attention could reasonably be expected to result in placing the individual's health in serious jeopardy, serious impairment to bodily functions, or serious dysfunction of any bodily organ or part.

(c)1. Approval of eligibility shall be for a time limited period which includes, except as established in subparagraph 2, the month in which the medical emergency began and the next following month.

2. The eligibility period shall be extended for an appropriate period of time upon presentation to the department of written documentation from the medical provider that the medical emergency will exist for a more extended period of time than is allowed for in the time limited eligibility period.

(d) The Medicaid benefits to which the individual is entitled shall be limited to the medical care and services, including limited follow-up, necessary for the treatment of the emergency medical condition of the individual.

(4)(a) The satisfactory documentary evidence of citizenship or nationality requirement in subsection (2)(a)1 of this section shall not apply to an individual who:

1. Is receiving SSI benefits;

2. Previously received SSI benefits but is no longer receiving them;

3. Is entitled to or enrolled in any part of Medicare;

4. Previously received Medicare benefits but is no longer receiving them;

5. Is receiving:

a. Disability insurance benefits under 42 U.S.C. 423; or

b. Monthly benefits under 42 U.S.C. 402 based on the individual's disability pursuant to 42 U.S.C. 223(d);

6. Is in foster care and who is assisted under Title IV-B of the Social Security Act; or

7. Receives foster care maintenance or adoption assistance payments under Title IV-E of the Social Security Act.

(b) The department's documentation requirements shall be in accordance with the requirements established in 42 U.S.C. 1396b(x).

(5) The department shall assist an applicant or recipient who is unable to secure satisfactory documentary evidence of citizenship or nationality in a timely manner because of incapacity of mind or body and lack of a representative to act on the applicant's or recipient's behalf;

(6)(a) Except as established in paragraph (b) of this subsection, an individual shall be determined eligible for Medicaid for up to three (3) months prior to the month of application if all conditions of eligibility are met.

(b) The retroactive eligibility period shall begin no earlier than January 1, 2014 for an individual who gains Medicaid eligibility solely by qualifying:

1. As a former foster care individual pursuant to this administrative regulation shall be no earlier than January 1, 2014; or

2. As an adult with income up to 133 percent of the federal poverty level who:

a. Does not have a dependent child under the age of nineteen (19) years; and

b. Is not otherwise eligible for Medicaid benefits.

Section 5. Provision of Social Security Numbers. (1)(a) Except as provided in subsections (2) and (3) of this section, an applicant for or recipient of Medicaid shall pro-

vide a Social Security number as a condition of eligibility.

(b) If a parent or caretaker relative and the child, unless the child is a deemed eligible newborn, refuses to cooperate with obtaining a Social Security number for the newborn child or other dependent child, the parent or caretaker relative shall be ineligible due to failing to meet technical eligibility requirements.

(2) An individual shall not be denied eligibility or discontinued from eligibility due to a delay in receipt of a Social Security number from the United States Social Security Administration if appropriate application for the number has been made.

(3) An individual who refuses to obtain a Social Security number due to a well-established religious objection shall not be required to provide a Social Security number as a condition of eligibility.

Section 6. Spend-down. (1) An individual shall be eligible on the basis of utilizing income above 133% of the federal poverty level to pay for incurred medical expenses resulting in the individual's income being below 133% of the federal poverty level after the expenses have been deducted.

(2) The eligibility date of an individual eligible pursuant to subsection (1) of this section shall be the date on which the spend-down liability amount is met.

Section 7. Institutional Status. (1) An individual shall not be eligible for Medicaid if the individual is a:

(a) Resident or inmate of a nonmedical public institution except as established in subsection (2) of this section;

(b) Patient in a state tuberculosis hospital unless he has reached age sixty-five (65);

(c) Patient in a mental hospital or psychiatric facility unless the individual is:

1. Under age twenty-one (21) years of age;

2. Under age twenty-two (22) if the individual was receiving inpatient services on his or her 21st birthday; or

3. Sixty-five (65) years of age or over; or

(d) Patient in a nursing facility classified by the Medicaid program as an institution for mental diseases, unless the individual has reached age sixty-five (65).

(2) An inmate who meets the eligibility criteria in this administrative regulation may be eligible for Medicaid after having been admitted to a medical institution and been an in-patient at the institution for at least twenty-four (24) consecutive hours.

Section 8. Incarceration Status. An inmate who meets the eligibility requirements of this administrative regulation shall be eligible for Medicaid after having been:

(1) Admitted to a medical institution; and

(2) An inpatient at the institution for at least twenty-four (24) consecutive hours.

Section 9. Application for Other Benefits. (1)(a) As a condition of eligibility for Medicaid, an applicant or recipient shall apply for each annuity, pension, retirement, and disability benefit to which the individual is entitled, unless the individual can demonstrate good cause for not doing so.

(b) Good cause shall be considered to exist if other benefits have previously been denied with no change of circumstances or the individual does not meet all eligibility conditions.

(c) Annuities, pensions, retirement, and disability benefits shall include:

1. Veterans' compensations and pensions;

2 Retirement, Survivors, and Disability Insurance;

3. Railroad retirement benefits;

4. Unemployment compensation; and

5. Individual retirement accounts.

(2) An applicant or recipient shall not be required to apply for federal benefits if:

(a) The federal law governing that benefit specifies that the benefit is optional; and

(b) The applicant or recipient believes that applying for the benefit would be to the applicant's or recipient's disadvantage.

(3) An individual who would be eligible for SSI benefits but has not applied for the benefits shall not be eligible for Medicaid.

Section 10. Assignment of Rights to Medical Support. By accepting assistance for or on behalf of a child, a recipient shall be deemed to have assigned to the Cabinet for Health and Family Services any medical support owed for the child not to exceed the amount of Medicaid payments made on behalf of the recipient.

Section 11. Third-party Liability as a Condition of Eligibility. (1)(a) Except as provided in subsection (3) of this section, an individual applying for or receiving Medicaid shall be required as a condition of eligibility to cooperate with the Cabinet for Health and Family Services in identifying, and providing information to assist the cabinet in pursuing, any third party who may be liable to pay for care or services available under the Medicaid program unless the individual has good cause for refusing to cooperate.

(b) Good cause for failing to cooperate shall exist if cooperation:

1. Could result in physical or emotional harm of a serious nature to a child or custodial parent;

2. Is not in a child's best interest because the child was conceived as a result of rape

or incest; or

3. May interfere with adoption considerations or proceedings.

(2) A failure of an individual to cooperate without good cause shall result in ineligibility of the individual.

(3) A pregnant woman eligible under poverty level standards shall not be required to cooperate in establishing paternity or securing support for her unborn child.

Section 12. Application Process, Initial and Continuing Eligibility Determination. (1) An individual may apply for Medicaid by:

(a) Using the WebSite located at www.kynect.ky.gov;

(b) Applying over the telephone by calling:

1. 1-855- 459-6328; or

2. 1-855-326-4654 if deaf or hearing impaired;

(c) Faxing an application to 1-502-573-2007;

(d) Mailing a paper application to Office of Health Benefits Exchange, 12 Mill Creek, Frankfort, KY, 40601

(e) Going to the applicant's local Department for Community Based Services Office and applying in person.

(2)(a) An application shall be processed (approved, denied, or a request for additional information sent) within forty-five (45) days of application submittal.

(b) Immediately after submittal if there is a variance of ten (10) percent or more regarding income information reported by the applicant versus information available from a trusted source or trusted sources, a request for additional information shall be generated for the applicant requesting documentation to prove the applicant's income.

(c) If a trusted source indicates that an applicant is incarcerated, a request for additional information shall be generated requesting verification of the applicant's incarceration dates.

(d) If an applicant fails to provide information in response to a request for additional information within thirty (30) days of the beginning of the application process, the application shall be denied.

(3)(a) An annual renewal of eligibility shall occur without an individual having to take action to renew eligibility, unless:

1. The individual's eligibility circumstances change resulting in the individual no longer being eligible for Medicaid; or

2. A request for additional information is generated due to a change in income or incarceration status.

(b)1. If an individual receives a request for additional information as part of the renewal process, the individual shall provide the information requested within forty-five (45) days of receiving the request.

2. If an individual fails to provide the information requested within forty-five (45) days of receiving the request, the individual's eligibility shall be terminated on the forty-fifth day from the request for additional information.

(4) An individual shall be required to report to the department any changes in circumstances or information related to Medicaid eligibility.

Section 13. Adverse Action, Notice, and Appeals. The adverse action, notice, and appeals provisions established in 907 KAR 20:060 shall apply to individuals for whom a modified adjusted gross income is the Medicaid eligibility income standard.

Section 14. Miscellaneous Special Circumstances. (1) A woman during pregnancy, and as though pregnant through the end of the month containing the 60th day of a period beginning on the last day of pregnancy, or a child under six (6) years of age, as specified in 42 U.S.C. 1396a(l)(1), shall meet the income requirements for this eligibility group in accordance with this administrative regulation.

(2) If an eligible child is receiving covered inpatient services, except for services in a long term care facility or behavioral health services in an inpatient facility on a long-term basis, on a birthday which will make the child ineligible due to age, the child shall remain eligible until the end of the stay for which the covered inpatient services are furnished if the child remains otherwise eligible except for age.

(3) A child born to a woman eligible for and receiving Medicaid shall be eligible for Medicaid as of the date of the child's birth if the child has not reached his or her first birthday.

(4)(a) A parent, including a natural or adoptive parent, may be included for assistance in the case of a family with a child.

(b) If a parent is not included in the case, one (1) other caretaker relative may be included to the same extent the caretaker relative would have been eligible in the Aid to Families with Dependent Children program using the AFDC methodology in effect on July 16, 1996.

(5) For an individual eligible on the basis of desertion, a period of desertion shall have existed for thirty (30) days, and the effective date of eligibility shall not precede the first day of the month of application.

(6) For an individual eligible on the basis of utilizing his excess income for incurred

medical expenses, the effective date of eligibility shall be the day the spend-down liability is met.

(7) A caretaker relative (not including a child):

(a) Removed from a family related Medicaid only case due to failure to meet a technical eligibility requirement shall not be eligible for Medicaid as a medically needy individual unless the individual is separately eligible for medical assistance without regard to eligibility as a member of the group from which the individual has been removed.

(b) Who is ineligible for K-TAP benefits for failure to comply with K-TAP work requirements shall not be eligible for medical assistance unless the individual is eligible as a pregnant woman.

(8)(a) Children with a common parent residing in the same household as the common parent shall be included in the same Medicaid case as the common parent unless doing so results in ineligibility of an otherwise eligible household member.

(b) If a family member is pregnant, the unborn child shall be considered as a family member for income determination purposes.

907 KAR 20:100

REVIEWED:

Date	Lawrence Kissner, Commissioner Department for Medicaid Services

APPROVED:

Date	Audrey Tayse Haynes, Secretary Cabinet for Health and Family Services

907 KAR 20:100

PUBLIC HEARING AND PUBLIC COMMENT PERIOD

A public hearing on this administrative regulation shall, if requested, be held on November 21, 2013 at 9:00 a.m. in the Health Services Auditorium, Health Services Building, First Floor, 275 East Main Street, Frankfort, Kentucky, 40621. Individuals interested in attending this hearing shall notify this agency in writing by November 14, 2013 five (5) workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. The hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation. You may submit written comments regarding this proposed administrative regulation until close of business December 2, 2013. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to:

CONTACT PERSON: Tricia Orme, tricia.orme@ky.gov, Office of Legal Services, 275 East Main Street 5 W-B, Frankfort, KY 40601, Phone: (502) 564-7905, Fax: (502) 564-7573.

REGULATORY IMPACT ANALYSIS
AND TIERING STATEMENT

Administrative Regulation #: 907 KAR 20:100
Cabinet for Health and Family Services
Department for Medicaid Services
Agency Contact Person: Marchetta Carmicle (502) 564-6204 or Stuart Owen (502) 564-4321

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the provisions and requirements regarding Medicaid eligibility for individuals whose eligibility standard is the modified adjusted gross income (or MAGI.) Such individuals include children under nineteen (19) – except for children in foster care; caretaker relatives with income up to 133 percent of the federal poverty level; pregnant women [including through day sixty (60) of the postpartum period] with income up to 185 percent of the federal poverty level; adults under sixty-five (65) with no child under nineteen (19) who do not otherwise qualify for Medicaid and whose income is below 133 percent of the federal poverty level; and targeted low-income children with income up to 150 percent of the federal poverty level. Included in the MAGI category are individuals who previously were ineligible for Medicaid benefits due to not meeting certain "technical" criteria (such as having to be aged, blind, or disabled) and whose income exceeded the prior, lower income threshold. This newly eligible group is comprised of adults with no child under the age of nineteen (19), who do not qualify under the category of "caretaker relative", and who are not pregnant. This group is known as the "Medicaid expansion group." Included in the expansion group are incarcerated individuals who are eligible if admitted to an inpatient hospital for at least twenty-four (24) hours and are otherwise eligible for Medicaid. Previously, DMS has covered such care (inpatient hospital care) for incarcerated pregnant women, but now childless adults (such as males) who are incarcerated will be eligible during inpatient hospital admissions lasting at least twenty-four (24) hours. Additionally, under the old Medicaid income eligibility rules, a state examined a person's gross income then subtracted miscellaneous "income disregards" to create a net income used for income eligibility determination purposes. Examples of income disregards (income that could be excluded from the eligibility determination) included some child support payments, certain childcare expenses, and the first ninety (90) dollars of earned income. Furthermore, each state established its own, unique income disregards. The new standard – MAGI – eliminates income disregards and in lieu of disregards establishes the same income standard for all states. Also, the MAGI standard does not count/consider some income (for eligibility determination purposes) that previously was counted as income. One (1) example of such includes Social Security benefits. Previously these benefits were counted as income. The elimination of it will enable the opportunity for individuals under sixty-five (65) who have a disability but previously did not qualify for Medicaid benefits due to having income in excess of the income limit. Additionally, there is

no resource test/standard for individuals for whom a modified adjusted gross income is the Medicaid eligibility standard. Lastly, as authorized by the Affordable Care Act, the department shall apply a five (5) percent increase in the income threshold for those whose income threshold is 133 percent of the federal poverty level, but the individual's initial eligibility determination indicates that the individual's income exceeds 133 percent of the federal poverty level.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to establish the provisions and requirements regarding Medicaid eligibility for individuals whose eligibility standard is the modified adjusted gross income. The Affordable Care Act mandates that the modified adjusted gross income be used (effective January 1, 2014) to determine Medicaid eligibility for certain populations rather than the prior Medicaid eligibility rules; thus, the administrative regulation is necessary to comply with the federal mandate.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation conforms to the content of the authorizing statutes by complying with a federal mandate to establish the modified adjusted gross income as the Medicaid eligibility standard, rather than existing Medicaid eligibility rules, for certain populations of individuals.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation will assist in the effective administration of the authorizing statutes by complying with a federal mandate to establish the modified adjusted gross income as the Medicaid eligibility standard, rather than existing Medicaid eligibility rules, for certain populations of individuals.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: This is a new administrative regulation.

(b) The necessity of the amendment to this administrative regulation: This is a new administrative regulation.

(c) How the amendment conforms to the content of the authorizing statutes: This is a new administrative regulation.

(d) How the amendment will assist in the effective administration of the statutes: This is a new administrative regulation.

(3) List the type and number of individuals, businesses, organizations, or state and local government affected by this administrative regulation: Individuals for whom a modified adjusted gross income will be the Medicaid income eligibility standard are affected by the administrative regulation. The Department for Medicaid Services (DMS) projects that the number of individuals, beginning January 1, 2014, for whom a modified adjusted gross income will be the Medicaid eligibility income standard will be 678,000. Included in this group are over 147,000 individuals who previously did not qualify for Medicaid benefits and are known as the "expansion group." The expansion group consists of adults who are not pregnant, who have no child under nineteen (19), and who are not otherwise

eligible for Medicaid. DMS projects the expansion group to grow to almost 188,000 by state fiscal year 2021 which is the year that the federal matching percent drops to its permanent level of ninety (90) percent. DMS anticipates that in state fiscal year (SFY) 2014 over 17,000 individuals who previously or currently qualify for Medicaid coverage under the old rules but did not apply will become eligible as a result of enhanced public awareness of Medicaid and awareness of the Kentucky Health Benefits Exchange or HBE. This is known as the woodwork effect. The Health Benefits Exchange, or HBE, is a program which enables individuals who make too much income to qualify for Medicaid benefits to receive assistance from the federal government in paying health insurance premiums for health insurance purchased through the HBE. The HBE is an open health insurance marketplace administered by the Cabinet for Health and Family Services. Individuals who apply for HBE coverage but are determined to qualify for Medicaid coverage (whether under the old rules or new MAGI rules) will be informed of Medicaid program eligibility. Those that qualify under the MAGI rules will be able to immediately apply for Medicaid through the same mechanism (phone, website, in person) in which they were applying for health insurance via the HBE. DMS projects that the number of people who will gain Medicaid eligibility as a result of the woodwork effect will top out around 21,000 in SFY 2017.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment. Individuals who wish to receive Medicaid benefits will have to apply for benefits in accordance with the requirements established in this administrative regulation and satisfy the requirements.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3). No cost is imposed.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3). Individuals who were eligible under the existing Medicaid eligibility rules (DMS estimates this number to be over 500,000) will benefit by having a simpler eligibility standard - standard which does not consider resources (assets that can be readily converted to cash) for Medicaid eligibility purposes nor certain technical requirements (such as having to be aged, blind, or have a disability.) Under the old Medicaid income eligibility rules, a state examined a person's gross income then subtracted miscellaneous "income disregards" to create a net income used for income eligibility determination purposes. Each state establishes its own, unique income disregards. The new standard – MAGI – eliminates income disregards and in lieu of the disregards establishes the same income standard for all states. Also, the use of MAGI rules will standardize and simplify the income eligibility standard nationwide and help lower administrative costs associated with determining eligibility for individuals. Additionally, DMS estimates that 147,000 individuals who previously were ineligible for Medicaid benefits will qualify in 2014 as a result of Kentucky adopting the federally-authorized eligibility

option which increases the income threshold for individuals as well as eliminates certain technical requirements. DMS projects this population to increase to approximately 188,000 in SFY 2021 [the year in which the federal matching rate plateaus at ninety (90) percent.] This group is known as the Medicaid expansion group. Also, incarcerated individuals in the expansion group will benefit by receiving Medicaid coverage during inpatient hospital admissions which lasts longer than twenty-four (24) hours.

(5) Provide an estimate of how much it will cost to implement this administrative regulation:

(a) Initially: DMS's costs associated with covering benefits for the "Medicaid expansion group" will be $0 for state fiscal year (SFY) 2014 as the cost (projected to be $563 million) will be entirely federally funded in 2014. However, DMS (and the Department for Community Based Services or DCBS) will experience administrative costs associated with additional staff, system programming, and resources needed to handle the increase in applications. DCBS anticipates a cost of $2.3 million related to this in SFY 2014. DMS anticipates an administrative cost increase of $7.6 million in SFY 2014. DMS anticipates an increased cost of $13 million in SFY 2014 due to the aforementioned woodwork effect expected to generate over 17,000 eligible for Medicaid under the old eligibility rules but who were unaware of the program. Covering inpatient hospital care for qualifying incarcerated individuals will reduce state general fund expenditures as the Department of Corrections currently pays for this care. The projected savings (expenditure reduction) for the Department of Corrections for SFY 2014 is $1.4 million.

(b) On a continuing basis: DMS's costs associated with covering benefits for the "Medicaid expansion group" in SFY 2015 will be $0 and DMS projects the federal government's costs (of covering benefits) for the period to be $1.193 billion. However, DMS and DCBS anticipate an administrative cost due to staffing and resources. DMS projects its administrative costs to elevate to roughly $18.5 million in SFY 2016 and remain at that level thereafter. DCBS's administrative costs is projected to elevate to, and level off at, $3.5 million in SFY 2017. Due to the woodwork effect DMS anticipates an increased cost of $28 million for SFY 2015 with a federal increase of $66 million. For SFY 2016, DMS's costs for the expansion group will again be $0 and the federal cost is expected to be $1.312 billion. DMS projects the woodwork associated costs to be $31 million state funds and $72 million in federal funds for SFY 2016. DMS projects the following state and federal cost amounts for SFY 2017 through SFY 2021 for the expansion group: SFY 2017 (state funds $33 million/federal funds $1.26 billion); SFY 2018 (state funds $74 million/federal funds $1.271 billion): SFY 2019 (state funds $91 million/federal funds $1.307 billion); SFY 2020 (state funds $124 million/federal funds $1.330 billion); SFY 2021 (state funds $151 million/federal funds $1.361 billion.) DMS projects the following reduction in state fund expenditures as a result of covering incarcerated individuals' inpatient hospital admissions which last at least twenty-four (24) hours [these are reductions in Department of Corrections expenditures]: $7 million for SFY 2015; $7.2 million for SFY 2016; $7.5 million for SFY 2017; $7.7 million for SFY 2018; $7.9 million for SFY 2019; $8.2 mil-

lion for SFY 2020; and $8.4 million for SFY 2021. DMS projects the following costs associated with the woodwork effect for SFY 2017 through SFY 2021: SFY 2017 (state funds $31 million/federal funds $71 million); SFY 2018 (state funds $32 million/federal funds $74 million); SFY 2019 (state funds $33 million/federal funds $77 million); SFY 2020 (state funds $34 million/federal funds $80 million); SFY 2021 (state funds $36 million/federal funds $83 million.)

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The sources of revenue to be used for implementation and enforcement of this administrative regulation are federal funds authorized under Title XIX of the Social Security Act and under the Affordable Care Act and matching funds from general fund appropriations.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: Beginning in SFY 2017, DMS will need additional funding to provide the state match for covering the expansion group. The federal match in SFY 2017 will be ninety-five (95) percent; thus, the state matching percent would be five (5) percent in SFY 2017. DMS projects the need to cover the five (5) percent match in SFY 2017 to be $33 million. DMS projects the following additional state funds needed from SFY 2018 through SFY 2021 as follows: SFY 2018 - $74 million; SFY 2019 - $91 million; SFY 2020 - $124 million; and SFY 2021 - $151 million. The federal matching rate descends to a plateau of ninety (90) percent from SFY 2021 going forward.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: The amendment to this administrative regulation neither establishes nor increases any fees.

(9) Tiering: Is tiering applied? (Explain why tiering was or was not used) Tiering is not applied as the income standard applies equally to all affected individuals.

FEDERAL MANDATE ANALYSIS COMPARISON

Regulation Number: 907 KAR 20:100
Agency Contact Person: Marchetta Carmicle (502) 564-6204 or Stuart Owen (502) 564-4321

1. Federal statute or regulation constituting the federal mandate. 42 USC 1396a(e)(14), 42 USC 1396a(r)(2).

2. State compliance standards. KRS 205.520(3) authorizes the cabinet, by administrative regulation, to comply with a requirement that may be imposed or opportunity presented by federal law for the provision of medical assistance to Kentucky's indigent citizenry.

   KRS 194A.050(1) authorizes the Cabinet for Health and Family Services secretary to "formulate, promote, establish, and execute policies, plans, and programs and shall adopt, administer, and enforce throughout the Commonwealth all applicable state laws and all administrative regulations necessary under applicable state laws to protect, develop, and maintain the health, personal dignity, integrity, and sufficiency of the individual citizens of the Commonwealth and necessary to operate the programs and fulfill the responsibilities vested in the cabinet. The secretary shall promulgate, administer, and enforce those administrative regulations necessary to implement programs mandated by federal law, or to qualify for the receipt of federal funds and necessary to cooperate with other state and federal agencies for the proper administration of the cabinet and its programs."

3. Minimum or uniform standards contained in the federal mandate. Effective January 1, 2014, each state's Medicaid program is required – except for certain designated populations - to determine Medicaid eligibility by using the modified adjusted gross income and is prohibited from using any type of expense, income disregard, or any asset or resource test. The populations governed by the new requirements include children under nineteen (19) [excluding children in foster care]; pregnant women (including the postpartum period up to sixty (60) days; caretaker relatives with income up to 133 percent of the federal poverty level; adults with no child under nineteen (19) with income up to 133 percent of the federal poverty level who are not otherwise eligible for Medicaid benefits; and targeted low-income children with income up to 150 percent of the federal poverty level.

   Also, states are prohibited from continuing to use income disregards, asset tests, or resource tests for individuals who are eligible via the modified adjusted gross income standard.

   Additionally, states are prohibited from applying an asset or resource test for eligibility purposes for the aforementioned population.

   States are also required to create and adopt an income threshold (under the modi-

fied adjusted gross income) that ensures that individuals who were eligible for Medicaid benefits prior to January 1, 2014 (the date that the modified adjusted gross income standard is adopted) do not lose Medicaid coverage due to the modified adjusted gross income standard taking effect.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? The administrative regulation does not impose stricter than federal requirements.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. The administrative regulation does not impose stricter than federal requirements.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

Regulation Number: 907 KAR 20:100
Agency Contact Person: Marchetta Carmicle (502) 564-6204 or Stuart Owen (502) 564-4321

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Department for Medicaid Services (DMS), the Department for Community Based Services (DCBS), and Department of Corrections will be affected by this administrative regulation.

2. Identify each state or federal regulation that requires or authorizes the action taken by the administrative regulation. 42 CFR 435.603 and this administrative regulation authorize the action taken by this administrative regulation.

3. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

   (a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? This administrative regulation is projected to generate $563 million in federal funds for the Medicaid program in state fiscal year (SFY) 2014 and reduce Department of Corrections' expenditures by $1.4 million for the same period. Additionally, the University of Louisville's Urban Studies Institute analyzed the projected impact on Kentucky's economy of Kentucky taking advantage of the Medicaid expansion authorized by the Affordable Care Act. USI's assessment projected that the expansion would create 7,600 jobs in SFY 2014 generating an economic impact of over $905 million including $293.7 million in wages and salaries with an average annual salary of $38,000. USI's analysis projects the following tax revenue increases in SFY 2014 as a result of Medicaid expansion: income tax revenues to increase $12.1 million state, sales tax to increase $11.9 million, and local occupational and payroll tax revenues to increase $4.9 million.
   (b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? This administrative regulation is projected to generate $1.193 billion in federal funds for SFY 2015; $1.312 billion in federal funds for SFY 2016; $1.26 billion in federal funds for SFY 2017; $1.271 billion in federal funds for SFY 2018; $1.307 billion in federal funds for SFY 2019; $1.330 billion in federal funds for SFY 2020; and $1.361 billion in federal funds for SFY 2021. The aforementioned analysis by the University of Louisville's Urban Studies Institute projected job created by the Medicaid expansion to reach top 16,000 in SFY 2016 and increase to 16,700 in SFY 2021. USI projects the economic impact to top $2.293 billion in SFY 2021 including $724.3 million in wages and salaries

with an average annual salary of $43,000. Additionally, USI projects the state income tax increase to reach $30 million in SFY 2021, the sales tax increase to reach $29.4 million for the same year, and local occupational and payroll taxes to increase by $12.0 million for the same year.

(c) How much will it cost to administer this program for the first year? DMS's costs associated with covering benefits for the "Medicaid expansion group" will be $0 for state fiscal year (SFY) 2014 as the cost (projected to be $563 million) will be entirely federally funded in 2014. However, DMS (and the Department for Community Based Services or DCBS) will experience administrative costs associated with additional staff, system programming, and resources needed to handle the increase in applications. DCBS anticipates a cost of $2.3 million related to this in SFY 2014. DMS anticipates an administrative cost increase of $7.6 million in SFY 2014. DMS anticipates an increased cost of $13 million in SFY 2014 due to the aforementioned woodwork effect expected to generate over 17,000 eligible for Medicaid under the old eligibility rules but who were unaware of the program. Covering inpatient hospital care for qualifying incarcerated individuals will reduce state general fund expenditures as the Department of Corrections currently pays for this care. The projected savings (expenditure reduction) for the Department of Corrections for SFY 2014 is $1.4 million.

(d) How much will it cost to administer this program for subsequent years? DMS's costs associated with covering benefits for the "Medicaid expansion group" in SFY 2015 will be $0 and DMS projects the federal government's costs (of covering benefits) for the period to be $1.193 billion. However, DMS and DCBS anticipate an administrative cost due to staffing and resources. DMS projects its administrative costs to elevate to roughly $18.5 million in SFY 2016 and remain at the level thereafter. DCBS's administrative costs is projected to elevate to, and level off at, $3.5 million in SFY 2017. Due to the woodwork effect DMS anticipates an increased cost of $28 million for SFY 2015 with a federal increase of $66 million. For SFY 2016, DMS's costs for the expansion group will again be $0 and the federal cost is expected to be $1.312 billion. DMS projects the woodwork associated costs to be $31 million state funds and $72 million in federal funds for SFY 2016. DMS projects the following state and federal cost amounts for SFY 2017 through SFY 2021 for the expansion group: SFY 2017 (state funds $33 million/federal funds $1.26 billion); SFY 2018 (state funds $74 million/federal funds $1.271 billion): SFY 2019 (state funds $91 million/federal funds $1.307 billion); SFY 2020 (state funds $124 million/federal funds $1.330 billion); SFY 2021 (state funds $151 million/federal funds $1.361 billion.) DMS projects the following reduction in state fund expenditures as a result of covering incarcerated individuals' inpatient hospital admissions which last at least twenty-four (24) hours [these are reductions in Department of Corrections expenditures]: $7 million for SFY 2015; $7.2 million for SFY 2016; $7.5 million for SFY 2017; $7.7 million for SFY 2018; $7.9 million for SFY 2019; $8.2 million for SFY 2020; and $8.4 million for SFY 2021. DMS projects the following costs associated with the woodwork effect for SFY 2017 through SFY 2021: SFY 2017 (state funds $31 million/federal funds $71 million); SFY 2018 (state funds $32 million/federal funds $74 million); SFY 2019 (state funds $33 million/federal funds $77 million); SFY 2020 (state

funds $34 million/federal funds $80 million); SFY 2021 (state funds $36 million/federal funds $83 million.)

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-): ____

Expenditures (+/-): ____

Other Explanation: